

REMARKS

Applicant's counsel thanks the Examiner for the careful consideration given the application. The specification and claims have been amended as requested by the Examiner. The word "strains" has been used; proper Markush wording has been employed. In response to the Examiner's inquiry, forced hetero-fermentative lactobacilli is explained in the specification at page 9, lines 4-14. In response to the Examiner's request, "quintal" has been defined to equal 100 kg.; this is consistent with the ratio in the specification at page 11, lines 1-4. The Examiner has inquired whether dry or wet weight is intended. Dry weight is not intended; this is consistent with the ratios in the specification at the last two lines on page 15 and the first three lines of page 16. In response to the Examiner's request, appropriate language has been added to the specification to comply with the Budapest Treaty.


As can be seen, the claims have now all been amended to require the inclusion of one or more strains of forced hetero-fermentative lactobacilli, preferably *Lactobacillus fermentum*, *Lactobacillus brevis* and *Leuconostoc mesenteroides*. These strains produce carbon dioxide; accordingly the inclusion of these strains contributes to creating anaerobic conditions in the fodder. This is very useful in the invention; as is known, the *Aspergillus* species are highly aerobic; the inclusion of the carbon dioxide producing lactobacilli causes carbon dioxide to be produced in the fodder, which tends to displace oxygen, create anaerobic conditions, and accordingly suffocate or repress the *Aspergillus* mold.

The present claims, now including these lactobacilli, clearly define over the applied reference. The claims have been rejected as anticipated by Mogna, et al. (MI 2001A002202). Mogna, et al. discloses the addition of *L. plantarum* and *L. pentosus*, but not the use of the referenced hetero-fermentative lactobacilli. With reference to Mogna, et al., it is noted that that reference is directed to repressing Clostridia; Clostridia is an anaerobic microorganism and accordingly would not be repressed by microorganisms which produce carbon dioxide. In summary, all the claims now require the use of one or more strains of forced hetero-fermentative lactobacilli, which produce carbon dioxide and create anaerobic conditions; the applied prior art does not teach or suggest the use of microorganisms which produce carbon dioxide or which create anaerobic conditions. Accordingly, the claims as now presented define over the prior art and are now in condition for allowance, which is respectfully requested.

In the most recent Office action a copy of applicant's Form PTO/1449 was enclosed, but one foreign patent document and 2 Other References were lined through with the statement that no copy was provided. Pursuant to WIPO procedures, the WIPO office is supposed to send copies of these references to the USPTO, but apparently they got lost or were misplaced. Accordingly, applicant is enclosing herewith another copy of the applicant's Form PTO/1449, along with a copy of each of these three references. It is requested that the Examiner consider these references and return an initialed copy of the Form PTO/1449 with the next communication.

If any additional fees are required by this communication, please charge such fees to our Deposit Account No. 16-0820, Order No. HOFF-41078.

Respectfully submitted,
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